IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.4065 OF 2004

Shri Laxmi Vividh Karyakari Sahakari
(Vikas) Seva Sanstha Ltd.. .. Petitioner

Vs

1. Rayat Vividh Karyakari
Sahakari (Vikas) Seva Sansth
Ltd and ors. .. Respondents

Mr P.D.Dalvi, for the petitioner.

CORAM : D.B.BHOSALE,J.

DATE : 13th September, 2004.

PC:

1. Heard the learned counsel for the petitioner.

2. This petition is directed against the order dated 6.1.2004 rendered by respondent no.4 rejecting Revision Application Nos 391/2002 and 497/2002 filed by the petitioner-society and making the Registration Certificate, issued to respondent no.1-society, absolute. Mr. Dalvi, learned counsel for the petitioner assailed the registration of respondent no.1-society on two grounds. Firstly, that the petitioner-society, which is an existing society, was not heard as provided in Government Resolution dated 7.2.2001 (Exhibui-D) and secondly, 93 members shown by

respondent-society as their members, in fact, are the members of the petitioner-society and, therefore, their proposal ought to have been rejected.

3. I have perused the impugned order. Even if the submission of Mr Dalvi that the petitioner-society, being an existing society, was not heard by the Assistant Registrar, Co-operative Societies, is accepted, it is clear from the orders passed by respondent nos 3 and 4 that the petitioner-society was fully heard by both these authorities and they seem to have dealt with all the contentions of the petitioner. In so far as the second contention of Mr Dalvi is concerned, it would be advantageous to reproduce the observations made by respondent no.4 in the impugned order dated 6.1.2004. The relevant observations read thus :

> "It appears that the respondent no 2, while rejecting the registration proposal has only relied upon the objection raised by the existing society and has not considered the financial viability of the respondent no.1 society in its proper perspective. Admittedly the expected finance of both these societies is more than Rs.50.00 lacs each. It is also observed that the

respondent no.2, D.Dy.Registrar has not considered the fact that the right cannal of River Dugdha Ganga flows from southern side of village Savarde Bk. because of which 90% of agricultural land of said village has come under irrigation which has ultimate effect of enchancing loaning capacity of both societies. It is also observed that clause 5 of "D" form attached with the Scrutiny Report submitted by the Asstt.Registrar, C.S., Kagal. The Asstt. Registrar, C.S.Kagal has stated that the existing society does not provide loan facility to all Khatedar members. It is also further seen from the said scrutiny report that 124 members who want to join the proposed respondent no 1 society have given their consent for the same. It is also observed that learned Advocate Mr Bhosale for the applicant society in his say submitted before the respondent no.3 has not denied the statement of the respondent no 1 to the effect that still there are 241 Khatedars having 454 hectors of land in village Savarde Bk. who have not taken finance from any of the society and all these Khatedars are willing and intending to join the respondent no.1 society. It is also important to note there that the learned Advocate

Mr Bhosale for the applicant society has made a statement before the respondent no 3 that he has no objection if the respondent no.1 is going to enroll new khatedars as its members, in order to fulfil the criteria of minimum number of 50 members.

. In view of the observations made hereinabove, I come to the conclusion that if the respondent no.1 society is registered no adverse effect or harm or injury is going to cause to the applicant society. On the contrary due to the registration of respondent no.1-society remaining all eligible khatedars in village Savarde Bk will be benefited. Therefore, I hold that respondent no.3 has rightly passed the impugned order rejecting the order of the respondent no.2 and directing the respondent no.2 to accord his sanction to the registration proposal of the respondent no.1 society. In view of this, both these revisions are required to be rejected."

4. It is thus clear that the proposal of the respondent society was considered in proper perspective and no illegality, worth mentioning, was committed while issuing certificate of the registration to the respondent-society. Considering that there are

concurrent findings recorded by respondent nos 3 and 4 and as I find that there is sufficient material on record justifying the registration of the respondent-society and considering extremely limited jurisdiction of this Court under Article 227 of the Constitution of India to disturb the findings of facts, the present petition cannot be entertained. The writ petition, therefore, fails and is dismissed as such.

(D.B.BHOSALE, J.)